



JEFF ATWATER  
CHIEF FINANCIAL OFFICER  
STATE OF FLORIDA

Florida Department of Financial Services

**MONROE COUNTY  
CLERK OF THE CIRCUIT COURT  
PERFORMANCE AND COMPLIANCE REVIEW**

**Report No. 2010-25  
March 9, 2011**

**SUMMARY**

The Chief Financial Officer for the State of Florida is authorized by law to conduct performance and compliance reviews for each of the Clerk of the Circuit Court's accounting of Article V State funding. The Department of Financial Services has completed a review of the Monroe County Clerk of Circuit Court's Office as required by Section 28.36(8), Florida Statutes. It is the practice of the Department of Financial Services to conduct these reviews for each Clerk of the Circuit Court every three years.

- The Monroe County Clerk of Circuit Court serves a population of 77,925.
- The review verified the Clerk's budgeting practices for each county fiscal year (CFY), October through September, and each state fiscal year (SFY), July through June, are in compliance with the Florida Clerks of Court Operations Corporation (CCOC) guidelines.
- The review verified the Clerk's remittances and recording of revenues/liabilities due to the State to be accurate and timely, as required by Section 28.245, Florida Statutes.
- The review verified the Clerk's court-related expenditures were allowable and compliant with Sections 28.35(3) and 29.008, Florida Statutes.
- The Clerk's office was able to meet or exceed all performance standards established by the CCOC except for juror payments for CFY 07-08, CFY 08-09, and SFY 09-10. Pursuant to Section 40.32(3), Florida Statutes, Clerks are required to issue juror payments within 20 days after completion of juror services.

**BACKGROUND**

In 1998, revisions to Article V, Section 14, of the Florida Constitution, specified portions of the state courts system and court-related functions that were to be funded from State revenues derived from statutory fines, fees, service charges, and court costs collected by the Clerks of Court.

Prior to July 1, 2009, Clerks prepared budgets using a revenue-based model independent of the State appropriations process. Clerks collected fines, fees, service charges, and court costs to fund their approved budgets and remitted any excess revenues to the Department of Revenue for deposit into the Clerks of Court Trust Fund. The Florida Legislature passed Florida Laws Chapter 2009-61 and Chapter 2009-204, placing the Clerks court-related budgets under the State appropriations process beginning July 1, 2009. The Florida Legislature appropriates the total amount for the Clerks' budgets in the General Appropriations Act (GAA).

The organization that governs the Clerks, the CCOC, is now administratively housed in the Justice Administrative Commission. The CCOC is responsible for developing the budgets and certifying a uniform system of performance measures for Clerks. Under the current model, all fines, fees, service charges, and court costs, except as otherwise provided in Sections 28.241 and 34.041, Florida Statutes, are collected by the Clerks' offices and remitted to the Department of Revenue for deposit into the Clerks of the Court Trust Fund, in accordance with Section 28.37, Florida Statutes. Beginning in July 2009, Section 28.245, Florida Statutes, requires Clerks' collections of court-related fines, fees, service charges, and costs to be considered liabilities due to the State and is required to be remitted to the Clerks of Court Trust Fund by the 20<sup>th</sup> of the month immediately following the month in which the monies are collected. Beginning July 2010, Section 28.245, Florida Statutes, requires Clerks to remit liabilities to the Clerks of Court Trust Fund by the 10<sup>th</sup> of the month immediately following the month in which the monies are collected. The Clerks are now funded by the State appropriations process.

## SCOPE

The Article V performance and compliance review of the Monroe County Clerk of the Circuit Court's Office covered CFY 07-08, CFY 08-09, SFY 09-10 and SFY 10-11 (through October 2010) court-related budgets certified by the CCOC, pursuant to Section 28.35, Florida Statutes. The review was conducted on December 13 through December 17, 2010, at the Monroe County Clerk of Circuit Court's Office.

## OBJECTIVES & METHODOLOGY

The performance and compliance review was conducted to ensure Clerk budget methodologies, expenditures, revenues/liabilities due to the State, and performance measures were accurately implemented and recorded according to law.

### ***BUDGETS***

The review of the Clerk's budgets verified that the budgets were funded from fines, fees, service charges, and court costs, pursuant to Section 28.37(1), Florida Statutes, and were prepared according to the CCOC instructions.

The table below reflects the budgeted expenditures and revenues/liabilities for each fiscal year reviewed, and reflects the budgeted surplus/deficit amounts certified by the CCOC.

Fiscal Year	Expenditures	Revenues/ Liabilities	Surplus/ (Deficit)
CFY 07-08	\$ 4,109,502	\$ 3,500,000	\$ (609,502)
CFY 08-09	\$ 4,059,792	\$ 3,497,000	\$ (562,792)

The Clerk's office was budgeted as a "recipient" county by the CCOC for CFY 07-08, and CFY 08-09. The Clerk's office was scheduled to receive monthly payments from the Clerks of Court Trust Fund based on the "recipient" county designation. The Clerk's budgeted deficit decreased from CFY 07-08 to CFY 08-09 by approximately 7.66%.

The table below reflects the revised budgeted expenditures and revenues/liabilities following the budget reductions implemented in May 2009.

Fiscal Year	Expenditures	Revenues/ Liabilities	Surplus/ (Deficit)
CFY 08-09 <sup>1</sup>	\$ 2,624,261	\$ 2,244,028	\$ (380,233)
SFY 09-10 <sup>2</sup>	\$ 3,358,938	\$ 2,929,396	\$ (429,542)
SFY 10-11 <sup>3</sup>	\$ 3,358,938	\$ 2,500,000	\$ (858,938)

Note 1: CFY 08-09 budgeted expenditures and revenues/liabilities are for the nine month period of October 2008 through June 2009.

Note 2: SFY 09-10 budgeted expenditures and revenues/liabilities are for the twelve month period of July 2009 through June 2010.

Note 3: SFY 10-11 budgeted expenditures and revenues/liabilities are for the twelve month period of July 2010 through June 2011.

Clerks are now required to budget according to State Fiscal Year (July 1 through June 30) and are provided funding through the State GAA. The CCOC released appropriations in the amount of one-twelfth of each Clerk's approved budget each month for SFY 09-10 and SFY 10-11 (through October).

The table below reflects the budgeted FTEs for each fiscal year reviewed and the court-related allocation percentages applied for shared overhead.

Fiscal Year	Direct Court- Related FTEs	Indirect Overhead FTEs	Total Court- Related FTEs	Total Court & Non-Court FTEs	Cost Allocation Percentage
CFY 07-08	61.03	7.37	68.40	108.00	63.33%
CFY 08-09	60.26	7.23	67.49	108.00	62.49%
SFY 09-10	54.24	6.87	61.11	97.00	63.00%
SFY 10-11	52.53	6.39	58.92	95.00	62.02%

The cost allocation percentages are applied to overhead costs budgeted to support court-related activities for all fiscal years. The allocation is based on the percentage of time each overhead position's duties are performed for court-related activities. The allocation methodologies applied by the Clerk's office are within the approved budget guidelines set by the CCOC. The budgeted total court-related FTEs decreased from CFY 07-08 to SFY 10-11 by approximately 13.86%. The budgeted cost allocation decreased from CFY 07-08 to SFY 10-11 by approximately 2.07%.

### ***EXPENDITURES***

The review sampled various court-related expenditure accounts and transactions to determine if the Clerk's office was in compliance with Section 28.35, Florida Statutes. The expenditure sample confirmed court-related expenditures were in compliance with Section 28.35, Florida Statutes, and funds were expended for allowable court-related costs. The Clerk's CCOC Technology Expense Monthly Tracking Report was in compliance with guidelines set by the CCOC. The Clerk's salary was within the salary requirements developed by the Office of Economic and Demographic Research. The Clerk provided detailed information on expenditures necessary for the performance of court-related functions using the court-related codes in the Uniform Accounting System Manual (UASM). The review confirmed the accuracy of the expenditures listed on the Clerk's General Ledger by reconciling with the expenditures reported on the CCOC Clerks' Trust Fund Collections Tracking Report for each fiscal year.

**The table below reflects the budgeted and actual expenditures for each fiscal year reviewed.**

<b>Fiscal Year</b>	<b>Budgeted</b>	<b>Actual</b>
<b>CFY 07-08</b>	\$ 4,109,502	\$ 3,448,899
<b>CFY 08-09<sup>1</sup></b>	\$ 2,624,261	\$ 2,551,243
<b>SFY 09-10<sup>2</sup></b>	\$ 3,358,938	\$ 3,172,480
<b>SFY 10-11<sup>3</sup></b>	\$ 3,358,938	\$ 1,120,579 <sup>4</sup>

*Note 1: CFY 08-09 budgeted and actual expenditures are for the nine month period of October 2008 through June 2009.*

*Note 2: SFY 09-10 budgeted expenditures are for the twelve month period of July 2009 through June 2010.*

*Note 3: SFY 10-11 budgeted expenditures are for the twelve month period of July 2010 through June 2011.*

*Note 4: Actual expenditures are for the four month period of July 2010 through October 2010*

The budgeted expenditures decreased from CFY 07-08 to SFY 10-11 by 18.26%. The Clerk's actual expenditures were below budgeted expenditures in CFY 07-08, for the nine month period of October 2008 through June 2009 of CFY 08-09, and SFY 09-10.

The table below reflects the budget categories that make up total budgeted expenditures for each fiscal year reviewed.

Fiscal Year	Personal Services	Operating Expenses	Capital Outlay	Budget Reserve	Total Expenditures
CFY 07-08	\$ 3,706,021	\$ 251,366	\$ -	\$ 152,115	\$ 4,109,502
CFY 08-09	\$ 3,562,854	\$ 215,587	\$ -	\$ 281,351	\$ 4,059,792
CFY 08-09 <sup>1,4</sup>	N/A	N/A	N/A	N/A	\$ 2,624,261
SFY 09-10 <sup>2,4</sup>	N/A	N/A	N/A	N/A	\$ 3,358,938
SFY 10-11 <sup>3,4</sup>	N/A	N/A	N/A	N/A	\$ 3,358,938 <sup>5</sup>

Note 1: CFY 08-09 represents revised CFY 08-09 budgeted figures for the nine month period of October 2008 through June 2009, based on the May 2009 budget reductions implemented by the CCOC.

Note 2: SFY 09-10 represents the budgeted expenditures for the twelve month period of July 2009 through June 2010.

Note 3: SFY 10-11 represents the budgeted expenditures for the twelve month period of July 2010 through June 2011.

Note 4: The categories of Personal Services, Operating Expenses, Capital Outlay, and Budget Reserve are listed as N/A in CFY 08-09, SFY 09-10 and SFY 10-11 due to the implementation of budget reductions in May 2009.

Note 5: SFY 10-11 total appropriation is subject to change due to the Unit Cost adjustment pursuant to Section 28.36 (10) b, Florida Statutes.

The Clerk's office budgets personnel related costs (employee salaries and benefits) in the budget category of personal services. The total budgeted expenditures in each fiscal year reviewed were approximately 89% personnel related.

### ***REVENUES/LIABILITIES DUE TO THE STATE***

The review confirmed that fines, fees, service charges, and court costs collected by the Clerk's office were remitted to the Department of Revenue for deposit into the Clerks of Court Trust Fund in a timely manner. Pursuant to Section 28.245, Florida Statutes, funds are required to be remitted to the Clerks of Court Trust Fund by the 20<sup>th</sup> of the month immediately following the month in which the monies are collected. Beginning July 2010, Section 28.245, Florida Statutes, requires Clerks to remit liabilities to the Clerks of Court Trust Fund by the 10<sup>th</sup> of the month immediately following the month in which the monies are collected. The review confirmed the accuracy of the revenues/liabilities listed on the Clerk's General Ledger by reconciling with the revenues/liabilities reported on the CCOC Clerks' Trust Fund Collections Tracking Report for each fiscal year. The Clerk's office is in compliance with Florida Laws Chapter 2008-111, and is timely and accurate in remitting and recording the collections provided to the State General Revenue Fund.

The table below reflects the budgeted and actual revenues/liabilities for each fiscal year reviewed.

Fiscal Year	Budgeted	Actual
CFY 07-08	\$ 3,500,000	\$ 3,438,424
CFY 08-09 <sup>1</sup>	\$ 2,244,028	\$ 2,250,446
SFY 09-10 <sup>2</sup>	\$ 2,929,396	\$ 2,518,093
SFY 10-11 <sup>3</sup>	\$ 2,500,000	\$ 783,171 <sup>4</sup>

Note 1: CFY 08-09 budgeted and actual revenues/liabilities are for the nine month period of October 2008 through June 2009.

Note 2: SFY 09-10 budgeted revenue/liabilities are for the twelve month period of July 2009 through June 2010.

Note 3: SFY 10-11 budgeted revenue/liabilities are for the twelve month period of July 2010 through June 2011.

Note 4: Actual revenue/liabilities are for the four months period of July 2010 through October 2010.

The budgeted revenues/liabilities decreased from CFY 07-08 to SFY 10-11 by 28.57%. The Clerk’s actual revenues/liabilities were below budgeted revenues/liabilities for CFY 07-08 and SFY 09-10. The Clerk’s actual revenues/liabilities were above budgeted revenues/liabilities for the nine month period of October 2008 through June 2009 of CFY 08-09.

The table below reflects the budgeted and actual remittances made to the Clerks of Court Trust Fund for each fiscal year reviewed:

Fiscal Year	Budgeted Surplus/(Deficit) Remittances	Actual Remittances from the Trust	Settle Up Remittance to Trust Fund	Total Remittances to Trust Fund
CFY 07-08	\$ (609,502)	\$ 588,840	\$ 578,365	\$ (10,475)
CFY 08-09 <sup>1</sup>	\$ (380,233)	\$ 451,842	\$ 151,045	\$ (300,797)
SFY 09-10 <sup>2</sup>	\$ (429,542)	\$ (840,845) <sup>2</sup>	\$ 186,458	\$ (654,387)
SFY 10-11 <sup>3</sup>	\$ (858,938)	N/A	N/A	N/A

Note 1: CFY 08-09 budgeted deficit remittances were based on the nine month period of October 2008 through June 2009.

Note 2: Section 28.37(2), Florida Statutes, considers all court related fines, fees, service charges, and costs collected by the Clerks to be state funds and require the funds to be remitted to the Clerks of Court Trust Fund. For SFY 09-10 the deficit of \$840,845 is the difference of the liabilities remitted of \$2,518,093 less the appropriations received of \$3,358,938.

Note 3: SFY 10-11 budgeted surplus remittances were based on the twelve month period of July 2010 through June 2011. The actual remittances, settle up remittances, and total remittances information was not available during the time of our review.

**PERFORMANCE MEASURES**

The CCOC has the responsibility of developing and certifying a uniform system of performance measures and applicable performance standards for the court-related functions, pursuant to Section 28.35(3) (a), Florida Statutes. The review confirmed the Clerk's office to be in compliance with the performance measure guidelines and standards defined by the CCOC except for the timely issuance of juror payments for CFY 07-08, CFY 08-09, and SFY 09-10. Pursuant to Section 40.32(3), Florida Statutes, Clerks are required to issue juror payments within 20 days after completion of juror services. The Clerk's independent audit report confirmed the Clerk's office to be in compliance with Section 28.35, Florida Statutes, for CFY 07-08 and CFY 08-09. The review verified the Clerk maintains a partial fee payment system, pursuant to Section 28.246, Florida Statutes.

**The table below reflects the standards of timeliness, collections, fiscal management, and juror payments achieved by the Clerk's office for each fiscal year reviewed.**

<b>TIMELINESS</b>	<b>CFY 07-08</b>	<b>CFY 08-09</b>	<b>SFY 09-10</b>	<b>SFY 10-11</b>
Standard	12 of 20	12 of 20	12 of 20	12 of 20
Clerk Reported	20 of 20	20 of 20	20 of 20	19 of 20 <sup>1</sup>
<b>COLLECTIONS</b>	<b>CFY 07-08</b>	<b>CFY 08-09</b>	<b>CFY 09-10</b>	<b>CFY 10-11</b>
Standard	5 of 9	5 of 9	5 of 9	5 of 9
Clerk Reported	8 of 9	8 of 9	8 of 9	N/A <sup>2</sup>
<b>FISCAL MANAGEMENT</b>	<b>CFY 07-08</b>	<b>CFY 08-09</b>	<b>SFY 09-10</b>	<b>SFY 10-11</b>
Standard	6 of 9	6 of 9	6 of 8	N/A
Clerk Reported	9 of 9	9 of 9	8 of 8	N/A
<b>JUROR PAYMENTS</b>	<b>CFY 07-08</b>	<b>CFY 08-09</b>	<b>SFY 09-10</b>	<b>SFY 10-11</b>
Standard	100%	100%	100%	100%
Clerk Reported	49%	92%	97%	100% <sup>1</sup>

*Note 1: SFY 10-11 timeliness, collections and juror payments data was reported through September 2010.*

*Note 2: CFY 10-11 collections data was not available at the time of our review.*

**The table below reflects the Clerk's cases, defendants and financial receipts for each fiscal year reviewed.**

<b>TOTAL REPORTED</b>	<b>CFY 07-08</b>	<b>CFY 08-09</b>	<b>SFY 09-10</b>	<b>SFY 10-11</b>
Cases	38,382	37,129	35,453	12,235 <sup>1</sup>
Defendants	6,341	9,191	7,710	2,615 <sup>1</sup>
Financial Receipts	58,263	50,627	51,594	N/A

*Note 1: SFY 10-11 Cases and Defendants data are for the four month period of July 2010 through October 2010.*

**OBSERVATIONS & RECOMMENDATIONS****Observation Number One:**

Based upon the review, we found the Clerk's budgeting practices and expenditure and revenue methodologies for State funds to be compliant with Florida Statutes and the guidelines established by the CCOC. We concluded that the Monroe County Clerk's Office is currently able to report on all required performance standards. However, the Monroe County Clerk's office did not meet or exceed the performance standard for juror payments issued timely for CFY 07-08, CFY 08-09 and SFY 09-10. Pursuant to Section 40.32(3), Florida Statutes, Clerks are required to issue juror payments within 20 days after completion of juror services.

**Recommendation Number One:**

The Monroe County Clerk's office should closely adhere to Section 40.32(3), Florida Statutes, regarding timely payment for juror services.



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March 8, 2011

Mr. Jeff Atwater, Chief Financial Officer  
State of Florida  
Florida Department of Financial Services

VIA E-MAIL

Dear Mr. Atwater,

We have received the draft Performance and Compliance Review Report No. 2010-25 for the Monroe County Clerk of the Circuit Court and have the following response to the Observation and Recommendation contained therein.

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When the juror payment performance standard was added, it was discovered that our juror payroll software was designed to pay jurors based on a period which began on the date a pool of jurors were called and ended on the last day of service rendered by any juror within that date's pool. We adjusted our procedures to process the juror payroll as quickly as possible after the completion of juror service. We did not attempt to immediately replace the software as constraints have been placed on using Clerk Modernization Trust Funds.

We continued to experience exceptions in our remote offices in Marathon and Plantation Key which must send the juror payrolls to Key West for processing. We have suffered significant staff reductions due to reduced funding over the last two years, the effect of which is to burden our remaining employees with a larger workload.

We have further adjusted our procedures to divide each call for jury service into two payrolls for those selected and unselected. We have also selected new jury software which was sent to the Office of the State Courts Administrator for review last month. We are reasonably confident that we can meet the standard in the future with the further adjustment in procedures and better technology.

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I hope you find the attached information informative.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Kolhage", written over a horizontal line.

Danny L. Kolhage  
Clerk of the Court  
Monroe County, Florida